



Supreme Court Case Study 5 (continued)

Marshall declared the Cherokee Nation to be "a distinct community occupying its own territory . . . in which the laws of Georgia can have no force." Discussing the Treaty of Hopewell, Marshall wrote, "Protection does not imply the destruction of the protected. . . . To construe the expression 'managing all their affairs' into a surrender of self-government would be, we think, a perversion of their necessary meaning." The act under which Worcester was imprisoned was thus declared unconstitutional.

President Andrew Jackson's administration refused to enforce the Court's decision. In 1835, the government signed a removal treaty with a small number of Cherokee. The U.S. Army resettled many Cherokee through a brutal, forced march to present-day Oklahoma. The Cherokee called this resettlement march the "Trail of Tears." Later, the Worcester decision was revived and became a legal weapon against encroachments on Native American rights.

***** Dissenting Opinion *****

Justice Henry Baldwin dissented. He referred back to his opinion in *Cherokee Nation v. Georgia* (1831). In this matter, Justice Baldwin claimed that by accepting the Treaty of Hopewell, "The Indians . . . do acknowledge all the Cherokees to be under the protection of the United States." Baldwin reasoned that this acceptance of United States protection waived all claims of Cherokee sovereignty. Furthermore, if the Court agreed to hear one such case, the federal courts would be overwhelmed with cases.



Questions *****

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. Why did Samuel Worcester challenge the constitutionality of the Georgia act?
2. How did the Court's opinion in the *Cherokee Nation* case differ from Worcester?
3. Do you agree more with Justice Marshall's opinion or with Justice Baldwin's dissent? Give reasons for your answer.
4. Suppose you were a Cherokee living at the time of the Worcester decision. How would the Court's ruling have affected you?
5. Why was the Worcester decision important in terms of Native American rights?

Supreme Court Case Study 46 Answers

**United States. Congress. Senate.
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Affairs. Subcommittee on Irrigation
and Reclamation**

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Cases Argued and Decided in the Supreme Court of the United States United States. Supreme Court,1912 *Digest of Decisions of the Supreme Court of the United States Reported in Vols. 1-36 Supreme Court Reporter, Vols. 106-241 United States Reports, Vols. 27-60 Lawyer's Edition, United States Reports, 1882-1916, with a Table of Cases Digested* ,1917

Monthly Labor Review ,1980 Publishes in depth articles on labor subjects current labor statistics information about current labor contracts and book reviews **The Southeastern Reporter** ,1903 **Search Engine Freedom** Joris van Hoboken,2012-10-01 In this book the author explores how search media can be incorporated into freedom of expression doctrine as well as media and communications law and policy more generally And the book develops a theory of the legal relations between national governments and search media providers on the one hand and between end users and information providers on the other Among the many issues covered are the following role of government under the right to freedom of expression lack of transparency about the ranking and selection of search results search engine and ISP intermediary liability filtering by access providers freedom of expression and the governance of public libraries the search engine market its business model and the separation rule for advertising search engine self regulation user profiling and personalization decisions and actions for which search engines should be able to claim protection The analysis draws on specific legal developments under Article 10 of the European Convention on Human Rights and the United States First Amendment and investigates issues of diversity pluralism and freedom of expression as they relate to editorial control in other media The author concludes with recommendations regarding search engine governance and the proper role of government indicating which existing elements of the regulatory framework for search media can be improved and offering directions for future legal and empirical research Considering the ever growing cultural political and economic importance of the Internet and the World Wide Web in our societies and the societal interests involved in the availability of effective search tools this first in depth legal analysis of search engine freedom will prove indispensable to the many practitioners and policymakers concerned with freedom of expression in the digital age **Review of the Case of the Free Bridge Between Boston and**

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